

SEAL

UNITED STATES DISTRICT COURT

for the
Eastern District of California

FILED

AUG 21 2019

United States of America)

v.)

Sherman Smith)

Case No.)

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY [Signature]
DEPUTY CLERK

7: 19 MJ 00160 SAB

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of February 2015 -- July 2016 in the county of Fresno in the
Eastern District of California, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. § 1343

Wire Fraud

PENALTIES:

20 years' imprisonment and/or \$250,000 fine;
3 years' supervised release;
\$100 special assessment

This criminal complaint is based on these facts:

See affidavit of TFO Pam Kobashi, attached hereto and incorporated herein by this reference.

☒ Continued on the attached sheet.

[Signature]

Complainant's signature

Pam Kobashi, TFO, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date:

8/21/19

City and state:

Fresno, CA

[Signature]

Judge's signature

Stanley A. Boone, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF COMPLAINT

I, Pam Kobashi, being first duly sworn, do hereby depose and state as follows:

1. I am a sworn federal officer with the United States Marshal Service and a task force officer for the Federal Bureau of Investigation (FBI). I have been employed as a sworn peace officer for the city of Fresno, California since 1990. I have an advanced Peace Officer Standardized Training (P.O.S.T.) certificate and a Bachelor of Science in Criminal Justice and Psychology from Michigan State University. Throughout my law enforcement career, I have attended trainings and conducted investigations related to white collar and financial crimes. I am currently assigned to the Sacramento Division, Central Valley Financial Crimes Task Force of the FBI.

2. This affidavit is made in support of a complaint charging Sherman Smith ("Smith") with Wire Fraud, in violation of 18 U.S.C. § 1343.

3. The information set forth in this affidavit is not intended to detail each and every fact or circumstance of the investigation or all information known to me and other law enforcement investigators. The information contained herein is based on my personal knowledge and my conversations with other investigators and witnesses directly involved in this case. This affidavit serves only to establish probable cause for the arrest of Smith.

I. PROBABLE CAUSE

A. Summary of Probable Cause

4. At all relevant times, Smith was the Executive Pastor of a church located in Clovis, in the State and Eastern District of California. In this role, Smith was in charge of the finances of the church. In addition to his position in the church, Smith also owned and operated a publishing business.

5. Smith induced investors, including church congregants and other individuals, to give money to the church based on materially false and fraudulent representations that the money would be used to finance a real estate development project for the benefit of the church. Smith's false representations included that the investment money would be used to pay off a mortgage on land owned by the church to allow for development of adjacent land parcels owned by the church in order to generate income.

B. February 2015 – June 2016

6. In or about February 2015, Smith appealed to potential investors at a board meeting and via email communications requesting funds to release the church from its mortgage and develop adjacent land parcels owned by the church.

7. On or about April 12, 2015, Smith appealed to the church's congregation from the pulpit for money to finance the real estate development project for the church. Smith also made individual appeals to congregants to loan money in support of this project, often in exchange for a return on their investments once the project came to fruition.

8. Based on Smith's false and fraudulent pretenses, representations, and promises, between April 2015 and June 2016, congregants and other investors gave Smith cash, wrote checks, and rolled over retirement accounts to the church through Smith to fund the purported real estate development project.

9. For example, two investors rolled over their retirement accounts in August 2015 after signing promissory notes with Smith. These notes authorized the investors' banks to transfer the money in their retirement accounts by wire to the church's account, in return for an eight percent return on investment and full repayment of the principal amount upon receipt of funds from the proceeds of the real estate development project.

10. Funds in the amount of almost \$95,000 were wired from each of the investor banks in Albuquerque, New Mexico to the church's bank in Fresno, California. Of the funds deposited to the church account in August 2015, only \$38,000 went to the church's mortgage company. The rest was transferred to Smith's publishing company for business expenses, to his personal account to pay credit card bills and his monthly BMW payment, or to other church accounts for non-mortgage related expenses.

11. As a further example, another investor rolled over her retirement account in the amount of approximately \$449,557 and a fourth investor wrote a \$200,000 check to the church in March 2016 after signing similar promissory notes with Smith. The retirement account funds were wired from the investor's bank in Albuquerque, New Mexico to the church's bank in Fresno, California. The \$200,000

1 investor check was processed through Dubuque, Iowa; Oklahoma City, Oklahoma; and Fresno,
2 California.

3 12. Between March and May 2016, the church account received these and other contributions
4 totaling over \$900,000 for the development project. Prior to these deposits, the account had \$28,000.
5 Of the outputs during this period, seventy-eight percent (approximately \$735,000) went to Smith's
6 publishing company and thirteen percent (approximately \$120,900) went to Smith's personal account.
7 Of all the funds that went to the publishing account during this time, sixty-nine percent (approximately
8 \$785,000) went to Smith's foreign venture with Faith Roberto detailed further in Section I.D below.

9 **C. June 2016 – July 2016**

10 13. On or about June 26, 2016, Smith again appealed to the church's congregation from the
11 pulpit for money to finance the real estate development project for the church. Smith made further
12 individual appeals to congregants to loan money in support of the project, often in exchange for a return
13 on their investments once the project came to fruition.

14 14. Based on Smith's false and fraudulent pretenses, representations and promises, between
15 June 26, 2016 and on or about July 25, 2016, congregants and other investors gave Smith cash and wrote
16 checks to the church through Smith to fund the purported real estate development project.

17 15. For example, three investors wrote checks to the church on or about June 27, 2016 in the
18 amounts of \$130,000; \$30,000; and \$25,000 in response to the June 26, 2016 pulpit appeal from Smith.
19 Each of these checks was processed through Dubuque, Iowa; Oklahoma City, Oklahoma; and Fresno,
20 California.

21 16. Between June 14 and June 29, 2016, the church account received these and other
22 contributions totaling approximately \$425,000 for the development project, plus about \$95,680 from
23 other church sources. Of the outputs during this period, eighty-six percent (approximately \$463,000)
24 went to Smith's publishing company and one percent (approximately \$12,870) went to Smith's personal
25 account. The \$463,000 to the publishing account during this time was combined with an additional
26 \$340,000 of checks intended for the church development project but written to the publishing account at
27 Smith's request. Of this approximately \$803,000 collected in the publishing account during this period
28

1 and intended for the church development project, ninety-three percent (approximately \$751,215) went to
2 Smith's foreign venture with Faith Roberto detailed further in Section I.D below.

3 **D. Use of Funds**

4 17. On July 25, 2016, Smith filed a report with the FBI in Fresno in which he claimed that he
5 had been defrauded by a foreign venture. He confirmed the church's development project and that he
6 initially needed to collect \$1 million. After another appraisal, the amount needed increased to \$1.5
7 million. Smith admitted to mishandling money intended for the church's development project, in
8 particular by wiring a total of \$2,083,315.90 of the church's money to various foreign and domestic
9 locations in furtherance of a foreign venture with Faith Roberto.

10 18. Smith stated that Faith Roberto was a woman in Europe who needed help freeing up her
11 inheritance money and getting it into the United States. Smith admitted that he could not explain how
12 any of the money he wired benefited the church and that he did not think any of the people who donated
13 money for the development project would have given the money had they known that Smith was going
14 to use it for the Faith Roberto project.

15 19. A financial analysis of the acquisition and movement of funds for the church's
16 development project indicates that Smith collected close to \$1 million more than would have been
17 required for the church to complete the project. Smith's misappropriation and loss of the funds intended
18 for the church's development project meant that it did not come to fruition and the investors lost their
19 investments.


20 **E. CONCLUSION**

21 20. Based on the above evidence, including victim interviews, Smith's own statements and
22 emails, and a financial analysis, I believe there is probable cause to believe that Sherman Smith did
23 knowingly and willfully execute, and attempt to execute, a scheme to defraud individuals of their money
24 and property, and to obtain money and property from individuals by means of materially false and
25 fraudulent pretenses, representations, and promises, specifically by soliciting and collecting funds in
26 furtherance of his church's development project which he then diverted for unintended purposes, and
27 that for the purpose of executing this scheme and artifice to defraud Smith knowingly transmitted and
28 caused to be transmitted by means of wire and radio communication in interstate and foreign commerce

1 the above-noted writings, signs, signals, pictures, and sounds, all in violation of Title 18, United States
2 Code, Section 1343.

3 21. I further request that the Court seal the arrest warrant and complaint and this affidavit in
4 support thereof, except that copies of the arrest warrant may be maintained by the United States
5 Attorney's Office and may be served on Special Agents and other investigative and law enforcement
6 officers of the Federal Bureau of Investigation, federally deputized state and local law enforcement
7 officers, and other government and contract personnel acting under the supervision of such investigative
8 or law enforcement officers, as necessary to effectuate the warrant. These documents pertain to and
9 discuss an ongoing criminal investigation that is neither public nor known to the target of the
10 investigation. That target is currently planning to depart the United States for a foreign country and
11 could alter his plans if advised of the arrest warrant. Accordingly, there is good cause to seal these
12 documents because their premature disclosure may seriously jeopardize the investigation and cause the
13 target to flee, destroy evidence, and/or tamper with witnesses.

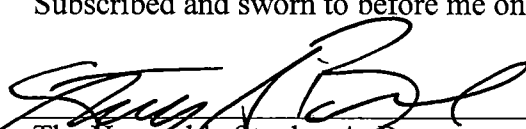
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15 Respectfully submitted,

16 

17 Pam Kobashi, Task Force Officer
18 Federal Bureau of Investigation

19
20 Subscribed and sworn to before me on:

8/21/19

21 
22 The Honorable Stanley A. Boone
23 UNITED STATES MAGISTRATE JUDGE

24
25 /s/ Laura D. Withers

26 Approved as to form by
27 LAURA D. WITHERS
28 Assistant United States Attorney